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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

)
Amendment of the Commission's)
Rules to Establish Part 27,)
the Wireless Communications)
Service ("WCS"))

GN Docket No. 96-228

To: The Commission

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COMMENTS
OF
AMERICAN PETROLEUM INSTITUTE

The American Petroleum Institute ("API"), by its attorneys, pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("Commission" or "FCC") respectfully submits these Comments in response to the Notice of Proposed Rule Making ("Notice")^{1/} adopted by the Commission in the above-styled proceeding.

I. INTRODUCTION

1. API is a national trade association representing approximately 350 companies involved in all phases of the

^{1/} 61 Fed. Reg. 59048 (November 20, 1996).

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petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. API's Telecommunications Committee is supported and sustained by licensees that are authorized by the Commission to operate, among other telecommunications facilities, two-way mobile radio, and point-to-point and point-to-multipoint systems that are governed by Parts 90 and 101 of the Rules and Regulations. These telecommunications facilities are used to support the search for and production of oil and natural gas. Such systems are also utilized to ensure the safe pipeline transmission of natural gas, crude oil and refined petroleum products, and for the processing and refining of these energy sources, as well as for their ultimate delivery to industrial, commercial, and residential customers. The facilities

licensed to API's members are therefore essential to the provision of our nation's energy sources.

3. API's members utilize these systems to serve a variety of vital two-way mobile, point-to-point and point-to-multipoint telecommunications requirements, including communications between remote oil and gas exploration and production sites, for supervisory control and data acquisition (SCADA) systems, to communicate with refineries, and to extend circuits to remote pipeline pump and compressor stations. The oil and gas industries were among the pioneers in the development of private mobile radio microwave systems.

II. COMMENTS

4. The Omnibus Consolidated Appropriations Act, 1997 ("Appropriations Act") requires the Commission to assign licenses for wireless subscription services in the bands 2305-2320 MHz and 2345-2360 MHz.^{2/} Thus, in its Notice, the FCC proposes to establish a new Wireless Communications Service ("WCS") in the bands 2305-2320 MHz and

^{2/} Omnibus Consolidated Appropriations Act, 1997, P.L. 104-208, 110 Stat. 3009 (1996) ("Appropriations Act").

2345-2360 MHz. The Appropriations Act also instructs the Commission to "take into account the needs of public safety radio **services**" in adopting procedures for the assignment of **licenses** in the 2.3 GHz band.^{3/}

5. Congress did not prescribe the manner by which the FCC should accommodate the needs of public safety radio services in the context of its directive concerning the bands 2305-2320 MHz and 2345-2360 MHz. The Commission noted that the Public Safety Wireless Advisory Committee (PSWAC), in its Final Report, recommended to the Commission that it allocate additional spectrum for public safety users. Accordingly, the Commission requested comments on whether it should consider allocating all or a portion of the 2.3 GHz spectrum for public safety use and whether the Commission has statutory authority to set aside a portion of this spectrum for public safety use. Notice at 21.

6. API filed Comments that respond to the Commission's Notice of Proposed Rule Making entitled In the Matter of the Development of Operational, Technical, and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the

^{3/} Appropriations Act, Section 3001(b)(2).

Year 2010, WT Docket No. 96-86. In its Comments, API stressed the need for reliable two-way land mobile radio communication in virtually every phase of the petroleum and natural gas industries and urged the FCC to adopt spectrum safeguards for private entities that regularly protect public safety and the environment.

7. The infrastructure of the petroleum and natural gas industries traverses our entire nation and serves nearly every population center. From oil exploration to drilling operations, to the operation of refineries, and the transportation of oil and natural gas by pipelines, rail, tank trucks and marine vessels, the petroleum and natural gas industries affect the safety of personnel and adjacent populations, including the surrounding environment. Often, the petroleum and natural gas industries play a direct role in saving lives and property. Petroleum refineries and other production facilities that have private fire and rescue units regularly participate in mutual aid organizations to assist local fire and rescue units respond to emergencies.

8. API does not intend to interpret the extent of the Commission's statutory authority in allocating the spectrum in the bands 2305-2320 MHz and 2345-2360 MHz.

However, API urges the Commission to consider the spectrum needs of industrial users, classified as "public service providers" in PSWAC's Final Report, along with the needs of public safety providers in allocating new spectrum.

9. The petroleum and natural gas industries serve public safety needs pursuant to mandates from Federal, state and local government. For example, the Department of Transportation rules require petroleum and natural gas entities to maintain reliable and redundant communications.^{4/} API believes that the FCC should consider the spectrum needs of these industrial users in conjunction with traditional public safety users in allocating new spectrum. Like public safety providers, public service providers must maintain a national infrastructure of reliable communications in order to protect the general public.

10. Over the past several years, such public service providers have found that there is insufficient spectrum to support their communications needs. This situation has been aggravated by the reallocation of public service user's

^{4/} 49 C.F.R. § 194.107(d)(1)(ii); 49 C.F.R. § 194, Appendix A; 49 C.F.R. § 195.401(a); 49 C.F.R. § 195.402(c); 49 C.F.R. § 195.408.

spectrum to Emerging Technologies in ET Docket Nos. 90-314 and 92-9. While accommodations were made for replacement spectrum in the Commission's ET Docket No. 92-9 proceeding, none of the replacement spectrum offers the favorable propagation characteristics available in the 2 GHz range. The requirement for an expanded emergency response allocation discussed in API's Comments filed in Docket No. 90-314 has not been addressed by the Commission. The Commission is therefore urged to address these spectrum shortfalls at its earliest opportunity.

IV. CONCLUSION

11. The petroleum and natural gas industry maintain an infrastructure necessary to protect the public safety. These industries face the same spectrum shortage as public safety entities. Therefore, API urges the Commission to expand the scope of its public safety consideration to include consideration of public service entities' spectrum requirements.

WHEREFORE, THE PREMISES CONSIDERED, the American Petroleum Institute respectfully submits the foregoing Comments and requests the Federal Communications Commission

take action in a manner consistent with the views expressed herein.

Respectfully submitted,

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